

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 3:04cr26WSu

RUSSELL MONTAGUE

**GOVERNMENT'S MOTION FOR ORDER RELEASING FUNDS FOR
PAYMENT OF ASSESSMENTS, RESTITUTION AND FINES**

COMES NOW the United States Attorney, by and through his undersigned assistant, and moves this Court for an Order releasing funds seized by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATFE) and transferred to and presently in the care, custody and control of John M. Colette, Esq., attorney for Russell Montague, and for grounds would state the following:

1. Defendant Russell Montague was arrested on January 11, 2004, on a criminal complaint charging him with firearms violations.
2. On or about February 4, 2004, the defendant was indicted in the Southern District of Mississippi in the instant cause number, which was superseded on June 9, 2004.
3. On October 22, 2004, before this Court, the defendant entered a plea of guilty to theft of firearms, possession of unregistered machine gun, felon in possession of firearms and use of firearm during and in relation to a drug trafficking crime (counts 2, 4, 5 and 6 of the indictment).
4. On or about February 23, 2005, Chief U.S. District Court Judge Henry T. Wingate sentenced Montague to serve a term of 180 months imprisonment and further ordered him to pay \$400.00 special assessment, \$820.00 restitution and \$1,000.00 fine. The Memorandum of

Understanding also provided that the defendant would pay any other appropriate restitution (Paragraph #8). The defendant also agreed at sentencing that restitution as determined would be paid to the owner of the stolen firearms.

5. The Judgement Order, signed March 4, 2005, provided that the special assessment and restitution were to be paid immediately. (See Exhibit 1 attached)

6. At the time of the defendant's arrest, ATFE agents recovered approximately \$1,464.00 from the person and property of the defendant and maintained it in their possession until March 18, 2005, when they relinquished care, custody and possession of said funds to John Colette, attorney for Montague.

7. Since that time, Mr. Colette has maintained the money and the government seeks authorization from this Court for Mr. Colette to pay the funds into the registry of this Court so that it might be applied to the outstanding assessments, restitution and fines due and owing.

WHEREFORE, premises considered, the government, pursuant to the terms of the Order of Judgement and Conviction in this case, seeks authorization by way of an Order, directing John Colette, representative of Russell Montague, to release all funds transferred to him by ATFE and presently being maintained in his care and custody to the U.S. District Clerk for the Southern District of Mississippi, who in turn is directed to apply such funds in a manner which is consistent with the Judgement in the instant criminal case.

Respectfully Submitted

DUNN LAMPTON
United States Attorney

By: /s/ Linda R. Anderson

LINDA R. ANDERSON
Assistant U.S. Attorney
Mississippi Bar No. 1582

Linda R. Anderson
Assistant U.S. Attorney
United States Attorney's Office
One Jackson Place
188 E. Capitol St., Suite 500
Jackson, MS 39201
(601) 965-4480

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing GOVERNMENTS MOTION FOR ORDER RELEASING FUNDS FOR PAYMENT OF ASSESSMENTS, RESTITUTION AND FINES has been mailed, postage prepaid, to John M. Colette Esq., attorney for defendant Russell Montague, at his usual mailing address, which is 401 E. Capitol St., Suite 302, Jackson, MS 39201.

This the 21th day of April, 2005.

LINDA R. ANDERSON
Assistant U. S. Attorney